

### **REMARKS**

This responds to the Office Action mailed on June 27, 2008.

Claims 34 and 40 are amended, no claims are canceled, and no claims are added; as a result, claims 34-36, 40, and 43-44 stand pending in this application. The amendments are fully supported by the current application (e.g., at page 14, lines 6-9 and 22-23) and do not add new matter.

#### **§103 Rejection of the Claims**

Claims 34-36, 40 and 43-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pare Jr. et al. (U.S. 6,269,348, hereinafter “Pare”) in view of Joshi (U.S. 4,688,169) and further in view of St. Regis Paper Co. v. Bemis Co., 193 USPQ 8 (hereinafter “St. Regis”).

For at least the reasons set forth below, Applicant respectfully submits that, in light of the amendments, this rejection is moot, and the identified claims are non-obvious over Pare, Joshi, and St. Regis, and are therefore allowable.

Claim 34, as amended, now recites, in pertinent part, “the at least one second mini-server message including a first identification for the user, generated using the first computer fingerprint file.”

The Office Action, at page 3, in rejecting claim 34, when discussing the limitation of “the at least one second mini-server message including a first identification for the user” relies on Pare at col. 16, lines 4-28. Applicant respectfully submits that Pare, in the cited passage, does not teach or suggest the amended claim limitation. Pare in the cited passage provides that the payer is identified through biometric:

“Network point of sale transactions are characterized by identifying the pay[e]r [t] using the pay[e]r's bid biometric sample submitted through the pay[e]r's personal PIA, or through a public PIA attached to an ATM or other public terminal. . . . Thus the pay[e]r is identified through biometrics, while the payee is identified through the verification of a digital certificate issued by an authorized certifying authority. . . . The pay[e]r then submits a bid biometric sample obtained from their physical person using the PIA's biometric sensor. The PIA determines that the biometric scan is non-fraudulent, and then translates and compresses that biometric scan into a format suitable for rapid transmission to the DPC. The pay[e]r then enters a PIN code into the PIA keypad.

The PIA transmits the biometric-PIN to the DPC for identification, along with the payee's digital certificate. The DPC identifies the pay[e]r, and retrieves the list of credit/debit accounts that the pay[e]r has previously registered with the system, and transmits this list back to the PIA.”<sup>1</sup>

According to the above quoted passage, transactions are characterized by identifying the payer using the payer's bid biometric sample submitted through the payer's personal PIA, and the payer is identified through biometric. However, biometric sample is clearly distinguished from the claimed *first identification for the user, generated using the first computer fingerprint file*. Accordingly, Pare does not disclose the limitation of “*the at least one second mini-server message including a first identification for the user, generated using the first computer fingerprint file*,” as recited in the amended claim 34. The Office Action has not used Joshi and St. Regis to show the “*first identification for the user*” feature and Applicant could not find any disclosure of the amended claim 34 limitation in these references.

Therefore, Applicant respectfully submits that, at least for the reasons set forth above, there are substantial differences between what is claimed and what is shown in Pare and Joshi, whether they are considered separately or in combination. Furthermore, because the cited documents do not show all of the elements of the claimed subject matter of the amended claim 34, those differences are significant and non-obvious to a person of ordinary skill in the art at the time the application was filed. Accordingly, the amended claim 34 and its dependent claims 35, 36, 43, and 44 are not rendered obvious by cited references and are allowable.

Similar arguments as presented with respect to claim 34 are also applicable to a consideration of the amended claim 40. As such, at least for the reasons set forth above with respect to claim 34, amended claim 40 is also allowable.

Therefore, it is respectfully requested the claim rejections under 35 U.S.C. § 103(a) be reconsidered, in light of the amendment, and withdrawn.

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<sup>1</sup> Pare, col. 16, lines 4-28

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 408-278-4042 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date Sept. 15, 2008

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 15<sup>th</sup> day of September 2008.

Dawn R. Shaw

Name

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Signature